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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/707,079	11/06/2000	David Hose	42365-00380	9121

33623 7590 07/30/2003

MARSH FISCHMANN & BREYFOGLE LLP/OPENWAVE SYSTEM  
INC.  
3151 SOUTH VAUGHN WAY  
SUITE 411  
AURORA, CO 80014

EXAMINER

MOORE, JAMES K

ART UNIT

PAPER NUMBER

2686

DATE MAILED: 07/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/707,079

Applicant(s)

HOSE, DAVID

Examiner

James K Moore

Art Unit

2686

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 30 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 76 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 76 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 November 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Response to Amendment***

1. The indicated allowability of claim 76 is withdrawn in view of Brohoff (U.S. Patent No. 6,108,533) and Bolduc et al. (U.S. Patent No. 6,157,841). The rejection based on these references follows.

***Claim Rejections - 35 USC § 103***

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claim 76 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brohoff in view of Bolduc et al.

Regarding claim 76, Brohoff discloses a method for providing location based services in a wireless network (10). The method comprises receiving, on a network platform (MSC 18) in communication with a subscriber using a mobile unit (19) via an air interface, a service request (inquiry 31) requesting information regarding the location based services, and obtaining on the network platform (MSC 18) location information (triangulation data) regarding a location of the mobile unit (19) determined using a network assisted location finding technology. The technology provides location information regarding the mobile unit based in part on a position of the mobile unit in relation to a known location of a stationary ground based network structure (a base station). The method also comprises identifying, on the network platform, utilizing the

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converted location information in the second form, a first and second service providers (e.g., service stations) and associated first and second service provider information (name, directions, special offers) based upon the determined location of the mobile unit (19). The first service provider may be farther from the mobile unit than the second service provider. The method also comprises accessing stored subscriber independent prioritization information (general search words) relating to a prioritization for presenting service provider information to a subscriber. The stored prioritization information establishes a basis independent of proximity for prioritizing the first and second service provider information. The method also comprises, based upon the stored prioritization information, prioritizing the first and second provider information, and outputting the first and second service information on the mobile unit based upon the step of prioritizing. See Figures 1 and 5; col. 4, line 49 through col. 5, line 10; and col. 6, lines 9-63.

Brohoff does not disclose that the first location information is assigned a higher priority than the second location information.

Bolduc discloses a method for providing location based services which comprises accessing stored subscriber defined prioritization criterion information. This allows service provider information to be presented to the subscriber in a form that best suits his individual preferences, and may result in a service provider that is not the most proximate to the subscriber receiving higher priority. See Abstract and col. 4, lines 27-33. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Brohoff with Bolduc, such that the service provider prioritization is defined by stored subscriber defined prioritization criterion information

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independent of proximity, so that the service provider information may be presented to the subscriber in a form that best suits his individual preferences.

**Conclusion**

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ken Moore, whose telephone number is (703) 308-6042. The examiner can normally be reached on Monday-Friday from 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha Banks-Harold, can be reached at (703) 305-4379.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**or faxed to:**

(703) 872-9314 (for Technology Center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

Ken Moore

JKM

*Marsha D. Banks-Harold*

MARSHA D. BANKS-HAROLD  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600